

# Exhibit 2

**From:** [Lutz, Brian M.](#)  
**To:** [mmolumphy@cpmlegal.com](mailto:mmolumphy@cpmlegal.com)  
**Cc:** [Charlie Sweeny](#); [Kahn, Michael J.](#); [Geoff Rushing](#); [Rick Saveri](#); [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); [Cadio Zirpoli](#); [Collins, Paul J.](#); [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** RE: FB - O'Connor v. Zuckerberg  
**Date:** Tuesday, August 13, 2019 10:31:10 AM

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Mark,

Are you saying you had no involvement in the San Mateo action before we filed our injunction motion?

**Brian M. Lutz**

## GIBSON DUNN

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200 Park Avenue, New York, NY 10166-0193  
Tel 212.351.3889  
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---

**From:** Mark Molumphy <[MMolumphy@cpmlegal.com](mailto:MMolumphy@cpmlegal.com)>  
**Sent:** Tuesday, August 13, 2019 10:21 AM  
**To:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>  
**Cc:** [Charlie Sweeny](#) <[charlie@saveri.com](mailto:charlie@saveri.com)>; [Kahn, Michael J.](#) <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [Geoff Rushing](#) <[Geoff@saveri.com](mailto:Geoff@saveri.com)>; [Rick Saveri](#) <[Rick@saveri.com](mailto:Rick@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); [Cadio Zirpoli](#) <[cadio@saveri.com](mailto:cadio@saveri.com)>; [Collins, Paul J.](#) <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** Re: FB - O'Connor v. Zuckerberg

[External Email]

Obviously by virtue of your motion

Sent from my iPhone

On Aug 12, 2019, at 7:52 PM, Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)> wrote:

Mark, are you involved in the San Mateo action?

On Aug 12, 2019, at 7:44 PM, Mark Molumphy <[MMolumphy@cpmlegal.com](mailto:MMolumphy@cpmlegal.com)> wrote:

[External Email]

Please. You filed a motion in the federal court where I represent the plaintiffs. Please confirm you will copy me going forward so that I can decide whether or not to present my position. Alternatively, confirm you will not do so and I will seek relief from our

court directly.

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**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]  
**Sent:** Monday, August 12, 2019 7:36 PM  
**To:** Mark Molumphy <[MMolumphy@cpmlegal.com](mailto:MMolumphy@cpmlegal.com)>  
**Cc:** Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; Kahn, Michael J. <[MIKahn@gibsondunn.com](mailto:MIKahn@gibsondunn.com)>; Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>; Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** Re: FB - O'Connor v. Zuckerberg

Mark, the motion is to enjoin the San Mateo O'Connor action. Are you involved in that action? Please explain.

**Brian M. Lutz**

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Tel 415.393.8379 • Cell 917.679.9662 • Fax 415.374.8474

On Aug 12, 2019, at 7:22 PM, Mark Molumphy <[MMolumphy@cpmlegal.com](mailto:MMolumphy@cpmlegal.com)> wrote:

[External Email]

Charlie, thank you for copying me on this email.

Brian, as Lead Counsel in the action in which this motion was filed, I find it inexplicable that Facebook did not inform me of this effort. Indeed, just as a matter of professional courtesy, I would expect that you would keep me in the loop of any discussion of briefing deadlines – particularly a deadline just days away.

This serves as a formal notice and request that, going forward, Facebook should include me on all correspondence relating to the federal action.

Mark

---

**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]  
**Sent:** Monday, August 12, 2019 6:43 PM  
**To:** Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>  
**Cc:** Kahn, Michael J. <[MIKahn@gibsondunn.com](mailto:MIKahn@gibsondunn.com)>; Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>; Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com); Mark Molumphy <[MMolumphy@cpmlegal.com](mailto:MMolumphy@cpmlegal.com)>  
**Subject:** Re: FB - O'Connor v. Zuckerberg

Charlie,

We will review. Please explain why you are coordinating with Mr. Molumphy. Thanks.  
Brian

On Aug 12, 2019, at 6:32 PM, Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)> wrote:

[External Email]

Counsel,

Attached are our edits to your proposed stipulation in the Federal Action. We forwarded your draft to Mr. Molumphy (also on CC) as he is representing plaintiffs in the Federal Action. Some of the minor edits are his and we agree with their inclusion. Please let us know as soon as possible if you have additional proposed edits or revisions as we would like to get this filed as soon as possible.

Best,

Charlie

Charlie Sweeny  
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---

**From:** Charlie Sweeny

**Sent:** Monday, August 12, 2019 2:35 PM

**To:** 'Kahn, Michael J.' <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>; Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>

**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)

**Subject:** RE: FB - O'Connor v. Zuckerberg

Counsel,

Please find attached our draft stipulation and proposed order regarding briefing the motion to stay in San Mateo Superior. Please let us know if you have any edits.

Thank you,

Charlie

Charlie Sweeny  
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Fax: (415) 217-6813

#### CONFIDENTIALITY NOTICE

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---

**From:** Kahn, Michael J. [<mailto:MKahn@gibsondunn.com>]  
**Sent:** Monday, August 12, 2019 1:57 PM  
**To:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>; Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>  
**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>;  
[tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J.  
<[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** RE: FB - O'Connor v. Zuckerberg

Counsel,

Please see attached a draft stipulation regarding briefing the injunction motion before Judge Gilliam. Please let us know if you have any edits.

Best,  
Michael

**Michael J. Kahn**

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---

**From:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>

**Sent:** Thursday, August 8, 2019 2:06 PM

**To:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>

**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>;  
[tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J.  
<[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MIJKahn@gibsondunn.com](mailto:MIJKahn@gibsondunn.com)>;  
[jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)

**Subject:** Re: FB - O'Connor v. Zuckerberg

Ok sounds good.

On Aug 8, 2019, at 2:04 PM, Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)> wrote:

[External Email]

Agreed. Shall we take stab at the state court stip and order and you guys do the federal court one?

Thanks.

Geoff

Sent from my iPhone

**Brian M. Lutz**

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Tel 415.393.8379 • Cell 917.679.9662 • Fax 415.374.8474

On Aug 8, 2019, at 10:56 AM, Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)> wrote:

How about you file opposition on Sept 20, we file reply Oct 15?

On Aug 8, 2019, at 10:45 AM, Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)> wrote:

[External Email]

Brian:

When do you propose filing your reply re the all writs motion?

Sent from my iPhone

**Brian M. Lutz**

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On Aug 8, 2019, at 7:50 AM, Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)> wrote:

Hi Geoff — you filing your opposition on Sept 6 is fine with us. We are not ok extending your response in the ND Cal action that far out. Any day the week of Sept 16 is fine with us. Thanks. Brian

**Brian M. Lutz**

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On Aug 7, 2019, at 4:09 PM, Geoff Rushing  
<[Geoff@saveri.com](mailto:Geoff@saveri.com)> wrote:

[External Email]

Hi Brian:

We are agreeable to your proposed schedule, with two provisos:

1. Our opposition be due on September 6 instead of the 4<sup>th</sup>;
2. Our opposition to the All Writs Act motion be due after the hearing on the stay motion, say October 8<sup>th</sup>.

Do you want to talk today about this? I am available for an hour or so. I am also available tomorrow morning after 10.

Geoff

---

**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]

**Sent:** Tuesday, August 6, 2019 7:12 PM

**To:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>  
**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** Re: FB - O'Connor v. Zuckerberg

Anytime tomorrow is fine.  
On Aug 6, 2019, at 4:33 PM, Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)> wrote:

[External Email]  
Thanks Brian. Let's try to talk tomorrow. What time is convenient?

---

**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]  
**Sent:** Tuesday, August 6, 2019 4:29 PM  
**To:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>  
**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** Re: FB - O'Connor v. Zuckerberg

Thanks, Geoff. We disagree, but as I told you on the phone, we are not trying to jam you at all and are happy to reach an agreement on a reasonable schedule like the one we sent you. So we will take you at your word on the schedule and won't appear tomorrow. Thanks. Brian

**Brian M. Lutz**

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Tel 415.393.8379 • Cell 917.679.9662 • Fax 415.374.8474

On Aug 6, 2019, at 4:17 PM, Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)> wrote:

[External Email]  
Brian:



You asked me for some authority.

Cal. Rule of Court 3.1202 (c) requires a showing of “irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte”. The only basis for an ex parte hearing you have proffered is that you cannot have your motion for a stay heard before your client’s time to respond to the complaint. I have assured you several times (twice in writing) that we will extend the time to respond, so I think, as I have explained, you have no basis to proceed ex parte. As I explained, I have no doubt we will be able to agree to a mutually acceptable schedule in the next day or two, I doubt we can do it today.

Cal. Rule of Court 3.1206 requires service of the ex parte application “at the first reasonable opportunity.” I don’t understand your statement that you will serve your papers “when we get the file stamped copies back.”

Geoff

---

**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]  
**Sent:** Tuesday, August 6, 2019 3:37 PM  
**To:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>  
**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** RE: FB - O'Connor v. Zuckerberg

Whether we proceed tomorrow depends on whether we have an agreement on a schedule, so please let me know soon. We will send you the papers when we get file stamped copies back.

**Brian M. Lutz**

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Tel 212.351.3889

[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com) • [gibsondunn.com](http://gibsondunn.com)

---

**From:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>

**Sent:** Tuesday, August 6, 2019 3:33 PM

**To:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>

**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)

**Subject:** RE: FB - O'Connor v. Zuckerberg

[External Email]

Brian:

Thanks for the response.

For the record we oppose an ex parte application for a stay and continue to believe it is improper because there is no urgency sufficient to ignore the normal briefing process. Your client's response to the complaint is not due for over two weeks, and we have indicated our willingness to grant a reasonable extension. (Even if your client's response was due imminently, it would potentially only justify an ex parte application to extend the time to respond, not an application for a stay.)

We will discuss your proposed schedule and get back to you. Please let me know as soon as possible whether you intend to proceed with the ex parte application tomorrow. If you do, please provide your papers as soon as possible, so that we may have some time to respond. We will appear and respond if you proceed.

Best,

Geoff

---

**From:** Lutz, Brian M. [<mailto:BLutz@gibsondunn.com>]

**Sent:** Tuesday, August 6, 2019 1:53 PM

**To:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>

**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio

Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J.  
<[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J.  
<[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** RE: FB - O'Connor v. Zuckerberg

Geoff, just to be clear, proceeding ex parte is proper because we gave you proper notice under the rules and because proceeding on a noticed motion schedule would push any decision on the stay motion to a date after Facebook's response to the complaint is due. In any event, I'm still waiting for sign off by Facebook, but here's our proposed schedule in lieu of proceeding tomorrow.

August 12 -- Facebook files motion to stay.

Sept. 4 – Plaintiffs' opposition to motion due.

Sept. 18 – Facebook's reply brief due.

Sept. 25 – hearing

If motion to stay is denied, Facebook has until November 11 to file motion to dismiss.

**Brian M. Lutz**

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Tel 212.351.3889  
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---

**From:** Geoff Rushing <[Geoff@saveri.com](mailto:Geoff@saveri.com)>  
**Sent:** Tuesday, August 6, 2019 12:20 PM  
**To:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>  
**Cc:** Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>; Charlie Sweeny <[charlie@saveri.com](mailto:charlie@saveri.com)>; [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com); Cadio Zirpoli <[cadio@saveri.com](mailto:cadio@saveri.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>; Kahn, Michael J. <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>; [jmorgus@amlawoffice.com](mailto:jmorgus@amlawoffice.com)  
**Subject:** FW: FB - O'Connor v. Zuckerberg

[External Email]

Hi Brian:

Rick is out of the office today, so he asked me to handle this.

Are you available for a call in the next hour to discuss the ex parte motion? We do not understand the urgency of the situation – it is my understanding that no mention of this was made on the call yesterday -- and, therefore, it would appear that an ex parte motion would be improper.

I understand that you have spoken with Jackson of the Anderlini office in the last few minutes, and that you are open to agreeing on a schedule for the motion etc. We are happy to discuss that, including a reasonable extension of your client's time to respond to the complaint. If you want to send a proposed schedule and forego the ex parte hearing, we can skip/postpone the call.

Thank you.

Best regards,

Geoff

----- Original message -----

From: "Lutz, Brian M." <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>

Date: 8/6/19 9:46 AM (GMT-08:00)

To: Rick Saveri <[Rick@saveri.com](mailto:Rick@saveri.com)>, [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com)

Cc: "Collins, Paul J." <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>,

"Kahn, Michael J." <[MJKahn@gibsondunn.com](mailto:MJKahn@gibsondunn.com)>

Subject: RE: FB - O'Connor v. Zuckerberg

Rick,

This email follows up on a voice message I just left for you. We will be moving ex parte to stay the San Mateo County action pending resolution of the injunction motion before Judge Gilliam in the ND Cal action. We will be appearing tomorrow, August 7<sup>th</sup>, at 2 pm in law and motion in San Mateo County. Please let us know if you intend to appear and oppose. Thanks. Brian

**Brian M. Lutz**

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Tel 212.351.3889  
[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com) • [gibsondunn.com](http://gibsondunn.com)

---

**From:** Kahn, Michael J. <[MKahn@gibsondunn.com](mailto:MKahn@gibsondunn.com)>  
**Sent:** Monday, August 5, 2019 10:41 AM  
**To:** [rick@saveri.com](mailto:rick@saveri.com); [tanderlini@amlawoffice.com](mailto:tanderlini@amlawoffice.com)  
**Cc:** Lutz, Brian M. <[BLutz@gibsondunn.com](mailto:BLutz@gibsondunn.com)>; Collins, Paul J. <[PCollins@gibsondunn.com](mailto:PCollins@gibsondunn.com)>  
**Subject:** FB - O'Connor v. Zuckerberg

Counsel,

Following up on my call with Rick on Friday, please let us know today if you agree to stay the *O'Connor* action until Judge Gilliam rules on Facebook's motion to enjoin *O'Connor*.

Best,  
Michael

**Michael J. Kahn**

## GIBSON DUNN

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